

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :  
Plaintiff, :  
 :  
v. : Civil Action No. \_\_\_\_\_  
 :  
VICKEY L. GRACEY, M.D. :  
Defendant. :

**COMPLAINT**

The United States of America, plaintiff, on behalf of its agency, the United States Department of Health and Human Services (DHHS) by its undersigned counsel, complains as follows:

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1345 and 42 U.S.C. §§ 254l, m-q, and 45 C.F.R. § 30.2 in that the plaintiff is the United States of America on behalf of its agency, the United States Department Health and Human Services (DHHS), seeking to recover overpayments of educational expenses of monthly stipends, tuition and fees paid to or on behalf of the defendant, Vickie L. Gracey, while she was attending medical school on National Health Scholarship Corp (NHSC) Program scholarships from the DHHS.

2. Venue is properly set pursuant to 28 U.S.C. § 1391 in that the plaintiff is complaining of Vicki L. Gracey, whose residential address is 3356 Wiehle Street, Philadelphia, PA 19129, a location within this district.

3. As set forth in Exhibit A, the attached Certificate of Indebtedness of Barry Blum, Chief, Referral Control Section, Debt Management Branch, of the DHHS Program Support Center, on March 20, 1994, Gracey applied for a scholarship award through the (NHSC)

Scholarship Program (42 U.S.C. § 2541, m-q), to complete a medical program at the MCP Hahnemann School of Medicine (later known as the Allegheny University of the Health Sciences) in Philadelphia, Pennsylvania.

4. On September 20, 1994, the DHHS entered into contracts to provide Gracey with NHSC scholarship support for the following three school years: July 1, 1994, through June 30, 1995, July 1, 1995 through June 30, 1996, and July 1, 1996, through June 30, 1997.

These awards were made upon the condition that, after completion of the course of study for which the scholarships were awarded, Gracey would serve in the full-time practice of her profession as a member of the NHSC in the health professional shortage area (designated under section 332 of the Public Health Service Act) to which Gracey was assigned by the Secretary. Gracey was required to serve one year for each year of scholarship support, or 2 years, whichever is greater.

5. After Gracey completed school year 1996-1997, she continued to receive scholarship funding for the 1997-1998 school year (July 1, 1997 through June 30, 1998). However, Gracey was ineligible to receive scholarship support during the 1997-1998 school year because she did not have a signed contract with the NHSC Scholarship Program for that school year and thus was not subject to the condition of required service in a health profession shortage area, described in paragraph 4 above, for that year.

6 During the 1997-1998 school year, Gracey received twelve stipend payments in the amount of \$915 each (for a total of \$10,980.00) plus a reasonable cost payment in the amount of \$4,183 and a \$25,000 payment for tuition and fees was made on her behalf to the

Allegheny University of the Health Sciences for a total of \$40,163.00 during a time period in which Gracey was not entitled benefits from the DHHS.

7. In an August 29, 2001 letter from the DHHS, resent to Gracey's place of employment on September 17, 2001, Gracey was informed that, absent a signed contract for the 1997-1998 school year, she was required to return the \$40,163 overpayment or enter into a payment plan to repay the \$40,163. True and correct copies of the letters are attached hereto as Exhibits B and C. Gracey did not respond.

8. A final demand for payment was sent to Gracey by letter dated August 25, 2003, a true and correct copy of which is attached hereto as Exhibit D.

9. To date, Gracey has not repaid the debt, nor entered into a payment plan to repay it. Accordingly, Gracey remains indebted to the United States in the amount of \$40,163.00.

**COUNT I**  
**UNJUST ENRICHMENT/RESTITUTION**

10. Paragraphs 1 through 9 are incorporated herein by reference.

11. Gracey has failed to return moneys to which she was not entitled.

12. Gracey has therefore been unjustly enriched and the United States has been damaged.

WHEREFORE, plaintiff United States of America requests entry of an order of restitution directing Vickey Gracey, defendant, to make the United States whole for the benefits conferred upon her by the United States in the amount of \$40,163.00.

**COUNT II**  
**PAYMENT UNDER MISTAKE OF FACT**

13. The United States incorporates here the allegations in paragraphs 1 through 12 of this complaint.

14. The United States and its agency, the DHHS made payments to defendant under the mistaken belief that the moneys were owed under a signed contract.

15. The United States would not have made payments to Gracey or on her behalf had it known that defendant had not executed the scholarship contract for the 1997-1998 school year.

16. The United States has been damaged by making payments to or on behalf of Gracey without a signed scholarship contract.

WHEREFORE, the United States demands judgment in its favor and against defendant Vickey Gracey, in the amount of \$40,163.00 with interest, costs, attorneys' fees, and such other relief as justice requires.

Respectfully submitted,

PATRICK L. MEEHAN  
United States Attorney

---

VIRGINIA A. GIBSON  
Assistant United States Attorney  
Chief, Civil Division

---

VIRGINIA R. POWEL  
Assistant United States Attorney  
Attorney I.D. No. 32230  
615 Chestnut Street, Suite 1250  
Philadelphia, PA 19106-4476  
Telephone: (215) 861-8263  
Facsimile: (215) 861-8349

VRP:AFFIRMATIVE:GRACEY.COMPLAINT.WPD